

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UBIQUITI, INC.,)
)
)
Plaintiff,)
)
v.) Civil Action No. 1:22-CV-00352-RDA-IDD
)
)
BRIAN KREBS and KREBS ON)
SECURITY, LLC,)
)
Defendants.)

**DEFENDANTS' MOTION TO EXTEND TIME
TO RESPOND TO COMPLAINT AND FOR STATUS CONFERENCE**

Pursuant to Local Rule 7, Defendants Brian Krebs and Krebs on Security, LLC respectfully request that the Court extend the deadline for Defendants to respond to the Complaint by an additional thirty days in light of extraordinary circumstances that have delayed the finalization of the parties' settlement. In addition, Defendants request that the Court hold an immediate telephonic status conference to determine whether Plaintiff intends to follow through with the parties' negotiated agreement since Plaintiff's counsel has failed to respond to Defendants' counsel despite numerous attempts to reach them. In support of their request, Defendants state as follows:

On August 3, 2022, Defendants filed an unopposed Motion to Extend Time (Doc. No. 19) to allow the parties to finalize, execute, and implement a settlement between them. The Court granted the motion, extending the deadline to September 3, 2022. (Doc. No. 20). However, in doing so, it indicated that "no further extensions will be granted absent extraordinary circumstances." *Id.*

The parties executed a Settlement Term Sheet, which Plaintiff signed on July 18, 2022. On August 2, 2022, Plaintiff transmitted a draft of the settlement agreement to Defendants. To best

ensure settlement and implementation, Defendants filed their motion for extension of time the following day, anticipating that, at most, thirty days would be required to finalize the settlement, although expecting that the settlement would be finalized much sooner.

On August 9, 2022, Defendants' counsel transmitted their revisions to Plaintiff counsel. Defendants' counsel have not received any communication from Plaintiff's counsel since then. On August 12, 17, 19, 23, and 24, Defendants' counsel reached out to Plaintiff's counsel by e-mail and telephone, without receiving any response. Defendants' counsel hope that nothing tragic has occurred, but this radio silence is unusual in this otherwise productive relationship.

This is a two-count defamation case in which the parties disagree about the merits and, in the absence of a settlement, Defendants would file a motion to dismiss. However, in the spirit of compromise, Defendants are willing to resolve the dispute in accordance with the parties' executed term sheet and the latest draft of the settlement agreement that memorializes the terms from the term sheet. Hopefully, this motion to extend will help get the settlement finalized, which is preferable for all. But, if it does not, Defendants should not lose the opportunity to seek dismissal where they have made diligent and good-faith efforts to reach the settlement anticipated by the executed term sheet.

The non-response from Plaintiff's counsel is completely unexpected, baffling, and extraordinary. An additional thirty days with an immediate telephonic status conference in the interim should clarify whether Plaintiff intends to move forward with finalizing the settlement in a timely fashion and, if not, will give Defendants sufficient time to prepare and file their motion to dismiss.

Dated: August 25, 2022

Respectfully Submitted,

/s/ David S. Wachen

David S. Wachen (VSB No. 96363)
Wachen LLC
11605 Montague Court
Potomac, MD 20854
Telephone: 240.292.9121
Fax: 301-259-3846
david@wachenlaw.com

Marc J. Randazza (*Pro Hac Vice*)
Randazza Legal Group, PLLC
30 Western Avenue
Gloucester, MA 01930
Telephone: 978.801.1776
ecf@randazza.com

Jay M. Wolman (*Pro Hac Vice*)
Randazza Legal Group, PLLC
100 Pearl Street, 14th Floor
Hartford, CT 06103
Telephone: 978.801.1776
ecf@randazza.com

Attorneys for Defendants
Krebs On Security, LLC and
Brian Krebs

CERTIFICATE OF SERVICE

I hereby certify that, on this 25th day of August, 2022, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ David S. Wachen
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